IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Court No.3

W.P.No.1067(M/S)/ 003

Rafiq Ahmad …Petitioner.

Vs.

Oriental Bank of Commerce Kashipur ….Respondent.

AND

W.P.No. 1068(M/S)/003

Nasir Ahmad ….Petitioner.

Vs

Oriental Bank of Commerce Kashipur ….Respondent.

Hon'ble Irshad Hussain, J.

Heard Sri Dharamveer Sharma learned Counsel for the petitioner and Sri S.K.Jain learned counsel for the respondent-Bank.

2- These petitions have been filed with the following prayers:-

(a) Issue a writ, order or direction in the nature of certiorari quashing the recovery certificates and citations issued for recovery of dues.

(b) Issue any writ, order or direction in the nature of mandamus directing the respondent No.1 to rectify the rate of interest in accordance with law as applicable to agriculture loan and furnish to the petitioner a statement of account depicting the amount already repaid towards the loan, balance amount together with interest and the recover the actual outstanding dues in easy instalments.

(c) Issue any other writ suitable or direction which this Hon'ble court may deem fit and proper in the facts and circumstances of the case.

(d) Award costs of the writ petition to the petitioner.

3- It is not in dispute that in W.P.No.1067/2003 Rs. 5,30030/- and in W.P. No. 1068/003 a sum of Rs. 5,51,244/- including recovery charges are due towards agricultural loan against the petitioner. It is stated in the petitions that petitioner is suffering from blood cancer and he has been getting treatment at Apollo Hospital New Delhi. No major member is available to lookafter his agricultural land which is the only source of livelihood of the petitioner and his

family. One these averments the indulgence of the court has been sought for in regard to prayers in the petition. Considering this special aspects of the case that the petitioner is suffering from dreaded disease, the equity is in his favour and in the interest of justice facility of instalment to pay agricultural loan may be extended to the petitioner.

4- For the above reason the petitions are disposed of in terms that the petitioner shall pay the entire amount due within a period of three yearly equal instalments and the first instalment shall fall due in the month of January 2004. The amount shall be payable together with the interest and in the default of a single instalment the entire amount shall be recoverable in lump sum. If there is any inaccuracy in the due amount the bank will reconcile the accounts of the petitioner with the petitioner who may show any document in that regard, to justify his own accounting and balance.

4- With these observations the petitions are disposed of finally.

(Irshad Hussain, J.)

Dated 23-10-003

ISB